

OS 106
WITNESS

New York City

One witness who helped to incriminate Lee Harvey Oswald in the assassination of President John F. Kennedy was a Book Depository porter named Charles Givens. The Warren Commission gave prominence to his testimony that he had forgotten his cigarettes on the sixth floor and that when he went to retrieve them just before noon he had encountered Oswald near the southeast corner window.

In a book published in 1967 (*Accessories After The Fact*, Bobbs-Merrill Co., Inc.), I discussed the discrepancies between the Givens story as set forth in the Warren Report and the corresponding testimony and exhibits, and the grounds for concluding that the story reeked of perjury and collusion. It was logically inconsistent with a genuine encounter at about 11:45 between Oswald and a group of employees who were racing two elevators from the sixth to the first floor, when Oswald had called to them to send one elevator back so that he could go down too. Ten minutes later, if one accepted Givens' testimony, Oswald declined to go down for the lunch break. Moreover, while Givens supposedly exchanged a few words with Oswald on the sixth floor, other witnesses observed him on the first floor. Most of all, Givens' testimony was suspect because in his affidavit to the Dallas police later that afternoon he said nothing about forgetting his cigarettes, returning to the sixth floor, or meeting Oswald there — an omission that was incomprehensible, if the encounter was authentic.

THAT IS HOW the situation appeared back in 1967. Some months ago, I obtained from the National Archives a collection of unpublished Warren Commission documents ("CD's") concerning Charles Givens. Reading them was a shock not soon to be forgotten. I had half-expected that the CD's would reconcile and dispose of the contradictions that earlier had forced me to question the legitimacy of the Givens testimony. Instead, these new documents all but proved that perjury had been committed, in order to place Oswald on the sixth floor at a time when Givens himself (as well as three other witnesses) saw him on the first floor. They also exposed the ugly fact that collusion in that perjury could not be suspected merely of Givens and the Dallas police, as it had seemed earlier, but clearly extended to two or more Warren Commission lawyers and therefore the commission itself.

Here is a chronological reconstruction of the Givens affair from which anyone easily can judge for himself whether or not there are sufficient grounds for an accusation of perjury, collusion, and falsification of evidence with the clear purpose of incriminating Oswald as the assassin of President Kennedy. (The citations in each case refer to both published transcripts and exhibits and to unpublished commission documents or internal reports and papers.)

November 22, 1963

At 1:46 p.m. Inspector Sawyer of the Dallas police issued an alert on the police radio for Charles Givens, a porter at the Book Depository, because he had "a police record and he left" (CE 705 page 30). It was known at that hour that Oswald, too, had left the scene but no alert for him was issued — Captain Will Fritz and two detectives intended to proceed to Irving personally, in search of Oswald.

Within an hour or two, Givens was escorted to the police headquarters, where he was questioned and where he executed an affidavit stating that he had left the sixth floor at about 11:30 a.m., had gone to the washroom, at noon had taken his lunch period, had gone to a parking lot to visit with a friend employed there (CE 2093 page 27). Givens' affidavit said nothing about a return to the sixth floor for cigarettes or an encounter there with Oswald.

Later that day Givens was interviewed by FBI agents Griffen and Odum. He gave them the same story as in the affidavit but added one additional piece of information — that at 11:50 a.m. he had seen Oswald reading a paper in the "domino room" on the first floor (CD 5 page 329).

November 23, 1963

Bonnie Ray Williams, another Book Depository employee, in an interview by FBI agents Griffen and Odum described a race between two elevators at about 11:30 a.m. in which he, Givens, and others participated. On the way down, they had seen Oswald on the fifth floor. Williams had returned to the sixth floor at about noon and had seen no one there (CD 5 page 330).

→ raise even stronger questions about Givens' testimony and the role of two or more Warren Commission lawyers in extracting that testimony.

December 2, 1963

Givens, interviewed by the Secret Service, said that he had seen Oswald with a clipboard on the sixth floor at about 11:45 a.m., shortly after which he and some fellow-workers had boarded the two elevators. While racing to the first floor, Oswald had called to them to send one elevator back up (Ball/Belin Report No. 1, dated Feb. 25, 1964). Again Givens said nothing about a return to the sixth floor for his cigarettes at any time after the elevator race.

December 9, 1963

The FBI Summary Report (withheld from the public until mid-1966, when certain excerpts were published in the book *Inquest*, raising a furor of doubt about the Warren Report) to President Johnson stated that Oswald had been observed on the fifth floor between 11:30 a.m. and noon and that during that period of time he had asked Givens, who was in an elevator, to close the gates when he got off so that the elevator could be summoned. (CD 1 page 6). The FBI Summary Report omits Givens' statement to two FBI agents on the day of the assassination that he had seen Oswald reading a paper in the domino room at 11:50.

February 13, 1964

Lt. Jack Revill of the Dallas police was interviewed by FBI agent Robert Gemberling about press rumors of a Negro being held in protective custody. Revill "stated that Givens had been previously handled by the Special Services Bureau on a marijuana charge and he believes that Givens would change his story for money." (Emphasis added.) Gemberling's report repeats the story of the elevator race during which Oswald yelled to Givens to close the gates when he got off (CD 735 pages 296-297). Almost three months after, the "fact" there is still no hint from Givens, Revill, or the FBI of cigarettes forgotten by Givens or his return to the sixth floor and encounter there with Oswald. But in another context, Revill volunteers the opinion that Givens would give false information "for money."

February 25, 1964

Warren Commission lawyers Joseph Ball and David Belin complete a first joint report, summarizing the evidence known by that date, and note discrepancies as to the time of Givens' departure (and elevator race) from the sixth floor - 11:35 as against 11:40 or 11:45 a.m. Ball and Belin also note that Givens saw Oswald at 11:50 a.m. in the domino room and that three other witnesses also place Oswald on the first floor - William Shelley, at about 11:50 a.m.; Eddie Piper, at noon; and Mrs. Carolyn Arnold, who believed she had seen Oswald near the front door of the Book Depository at about 12:15 p.m. (Ball/Belin memorandum of Feb. 25, 1964, pages 101, 102-107, 110).

March 18, 1964

Givens, in an affidavit furnished by him to FBI agents Trettis and Robertson, states that when President Kennedy was shot, he was standing at the corner of Record and Elm Streets. "I returned to the Depository Building," and was told by a Dallas policeman that I could not enter the building. About an hour later I went to the Dallas Police Department and was questioned by the police for about 45 minutes." (CE 1381, page 36.) Wearisome though it is, it must again be pointed out that there was no mention during the 45-minute interrogation of the cigarettes left and retrieved or of seeing Oswald on the sixth floor, nor were these alleged circumstances hinted at in the March, 1964, affidavit to the FBI, four months after the assassination.

April 8, 1964

Charles Givens gives sworn testimony to the Warren Commission in a deposition taken by lawyer David Belin, with no one else present except the court reporter. Now, for the first time, Givens tells the story (later embodied in the Warren Report) about the cigarettes forgotten on the sixth floor and the encounter with Oswald. (6H 345-356, WX 143). Belin indisputably was fully aware that Givens had told a completely different story to the FBI and the police on the day of the assassination, and subsequently to the Secret Service and the FBI, since Belin had co-authored the report which discussed Givens' accounts of his movements in considerable detail. But Belin did not challenge Givens' new story nor place on record that on several earlier occasions Givens had sworn to a completely different account of his movements and actions on the day of the assassination. Indeed, in one oblique question, "Did you ever tell anyone that you saw Lee Oswald reading a newspaper in the domino room around 11:50 that morning?" (6H 354) 

should have been

he asked

Belin's intent seemingly was to nullify and eradicate testimony by Givens (as well as three other witnesses) which placed Oswald on the first floor, when the commission wished to place him on the sixth floor. Givens replied, "No, sir," which meant either that he was giving Belin a false response or that the two FBI agents who had interviewed him on Nov. 22 had invented Givens' reported statement that he had seen Oswald in the domino room at 11:50 a.m. Yet neither Givens nor the FBI agents were challenged or even queried in an attempt to determine which story was true and which was false.

Is it going too far, then, to say that assistant counsel Belin thus passively and by omission became a party to collusion, perjury, and the suborning of false testimony desired in order that the commission and the government might incriminate and more persuasively accuse Oswald? And what of Ball, and the other lawyers, and the commission members as well as Chairman Earl Warren, who surely read and were aware of Givens' original story, in the Ball/Belin report if not in the source documents? They are equally guilty with Belin of a shameful perversion of evidence and scandalous deception of the public, which was informed only of Givens' fictional, second story and given no hint that from Nov. 22, 1963 to April 7, 1964 he had given Oswald an "alibi" rather than a kiss of death.

Mssrs. Belin and Ball and their follow-counsel presumably are all still engaged in the practice of law. The American Bar Association should examine their credentials and good standing in the light of what must be regarded, morally if not technically, as a flagrant malfeasance and ugly breach of the canon of ethics for members of the Bar. The same applies to the surviving commission members, who are prominent in government or public life, and are also members of the Bar. No one, however, is advised to hold his breath awaiting retribution by the ABA or any other authority.

April 8, 1964.

Lawyer Belin took the testimony of Inspector Herbert Sawyer on the same day as he questioned Givens. Sawyer stated that he had sent out an alarm for Givens an hour after the shooting on Dealey Plaza because "he was suppose to have some information about the man that did the shooting" (611-315-325). Belin complacently accepted that statement, despite the fact that Givens when he was picked up did not produce information "about the man who did the shooting" and despite the language of the alert broadcast on the police radio, which shows clearly that Givens was wanted because he had a police record and was missing from the Book Depository.

Why did Sawyer (and later, Revill, as discussed below) attempt retroactively to authenticate a story which Givens articulated for the first time in April? Was this testimony part and parcel of a deliberate, planned collusion among police officials, commission lawyers, and a witness who was a man with a police record and who was appraised as a man

May 13, 1964

Lt. Revill testified before the Warren Commission, J. Lee Rankin conducting the examination in the presence of Warren, Gerald Ford, Allen Dulles, Norman Redlich, Arlen Specter, and Charles Murray, ABA observer. Revill stated that at about 2:30 or 3 p.m. on the day of the assassination he knew only that someone named Lee had been arrested and that "this was told to him by a colored employee of the Depository." Revill continued, "I asked him if he had been on the sixth floor . . . he said, yes, that he had observed Mr. Lee, over by this window. So I turned this Givens individual over to one of our Negro detectives and told him to take him to Captain Fritz for interrogation" (SH 35-36).

This testimony is patently false, for the obvious reason that Givens on arrival at the police department did not state that he had seen Oswald "over by this window" and never said so until April, 1964, Chief Curry, when he was questioned on June 2, 1964, by FBI agent Vincent Drain, gave a different version than Revill of what had transpired: "Givens told Revill that he had been in the . . . Depository . . . with Oswald on the morning of Nov. 22, 1963, but was on the street during the motorcade . . . Chief Curry related that everyone who might have any knowledge of Oswald, known as Lee to Givens, was being questioned" (CD 1245 page 181).

apparently

This seems to be the authentic story — the Givens was questioned not because he had any special information but because he was employed at the Book Depository.

June 2, 1964

Police Chief Curry was interviewed. FBI agent Drain, as reported in the preceding paragraph.

June 3, 1964

The FBI promptly re-interviewed Givens, who told FBI agents Switzer and Petraskis that he *now recalled* that he had returned to the sixth floor at about 11:4 a.m. to get his cigarettes, etc. (CD 124 page 182). The FBI did not even raise an eyebrow at Givens' sudden recovery from sustained amnesia.

September 20, 1964

The Warren Report was released, with its "forgotten cigarettes" version of Givens' activities. It contained no indication explicit or implicit, of Givens' original story, which had placed Oswald in the domino room at 11:50, nor did it mention that another witness had also seen Oswald on the first floor at precisely that time while still other witnesses saw him still on the first floor at noon and at about 12:15 p.m.

The report also "cleared up" some of the confusion about items of evidence which had arisen because of fragmentary or misleading press reports out of Dallas in the first frantic hours after the assassination. For example, the chicken remains and cigarette package which had created the impression of a sniper who had concealed himself for a prolonged time on the sixth floor, awaiting the President's appearance. The report explained that the chicken remains were discarded innocently by one of the Book Depository employees who had eaten his lunch on the sixth floor. But it said nothing about the cigarette package mentioned in the initial press stories but then completely forgotten by the news media. Oswald, after all, did not smoke.

But Charles Givens *did* smoke. If he really left his package of cigarettes on the sixth floor, it may have been picked up together with the chicken bones since the burden of the unpublished documents is that he never returned there to retrieve anything. Certainly it is curious that the elusive cigarette pack is not mentioned anywhere in the 26 volumes of testimony and exhibits nor in the hundreds of pages of unpublished documents which deal in great detail with the crime search and the laboratory tests of materials and objects found on the sixth floor.

~~June 1970~~

We can now assemble a sorry and sordid history of the manner in which men of eminence and power used their authority, in one specific case, to pervert and conceal evidence that tended to exonerate Oswald until it appeared to incriminate him in an atrocious crime. Such treachery toward a murdered and underminded man signifies moral cowardice of ugly proportions. Is it the accused "lone assassin" or is it his accusers, who were the real criminals?